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**QUINN GILLESPIE
& ASSOCIATES LLC**

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To: Beth Nolan

From: Jack Quinn

Fax: [REDACTED]

Pages: 7

Phone:

Date: 1/17/01

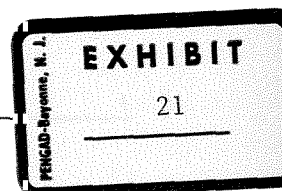
Re: Review of Enforcement Proceedings

CC:

☐ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply

Confidential

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MEMORANDUM

TO: Scooter Libby
FROM: Mark Ehlers
DATE: June 10, 1988
RE: Review of DOE Administrative and DOJ Criminal Enforcement Proceedings

SAV 12 SETH NOLAN
This is SVE, further
to the point that
no one else was
prosecuted - JCP

The following statements may be made in good faith to the
U.S. Attorney's Office:

"Our firm has attempted an exhaustive search of all
identifiable DOE administrative and DOJ criminal enforcement ac-
tions against crude oil resellers and producers for alleged
violations of DOE pricing laws from 1973-1981.¹

1. Counts in the Indictment

"We have uncovered no case in which a jail sentence has
been imposed for a willful violation of the PAM regulations, the
conduct for which MR and PG have been indicted.² All criminal

¹ With the aid of the responsible office in DOE, we have
identified 48 criminal enforcement proceedings against crude oil
resellers, which we believe to be the universe of cases brought
against crude oil resellers by U.S. Attorney's Offices throughout
the country. In addition, we have identified four criminal cases
brought against crude oil producers. Of these, we have found two,
both of which involve miscertification. Our search requests in
the relevant district courts with respect to the remaining two
producer cases continues. Accordingly, we are unable at this time
to make any representations with respect to criminal producer
cases.

² Of the 48 criminal reseller cases we have uncovered, we know
(Footnote Continued)

reseller cases in which the defendant served some time in prison involved charges of willful miscertification. MR and PG are not accused of willful miscertification.³

"Indeed, only one criminal case has been instituted against resellers for a markup violation, and this case is readily distinguishable from the case brought against MR and PG.⁴ All

(Footnote Continued)
the dispositions of 45. In fourteen cases, the defendant served some time in prison. However, all of those cases involved willful miscertification (resulting in charges under 18 U.S.C. §§ 371, 1001, and/or 1341).

As for the three cases in which we do not have any court papers, we have been instructed by Avrom Landesman, former chief enforcement officer at DOE, that two of those cases, both involving companies, are not in any way similar to this case, and that the third case involved miscertification. Consequently, though we do not know the dispositions of those three cases, we have reliably been told that they are not relevant to the disposition of this case. To the extent that any of these cases resulted in jail time, it would have been in the miscertification case, because the other two cases were brought against companies, not individuals.

Of the remaining 31 criminal reseller cases, we are confident, based on our discussions with Mr. Landesman and our own independent review, that with one possible exception, (discussion in text and in footnote below), none involved charges similar to those asserted against MR and PG.

3 The U.S. Government has expressly represented that after making a full and complete investigation of the crude oil transactions involving MR companies, it concluded that the evidence did not support charges of willful miscertification.

4 That case involved three companies (Coral Petroleum, Coastal States, and Holborn Oil) and three individuals (Oscar Wyatt, David Chalmers, and Sam Willson, Jr.); it thus actually constitutes six of the 48 criminal reseller cases we have identified. The alleged scheme in that case involved a loophole in the energy regulations that restricted the permissible profit to \$.04/bbl that could be earned by Wyatt's company, Coastal, on each resale of crude oil. These same regulations, however, allowed Chalmers' company, Coral,

(Footnote Continued)

other PAM violations have been brought civilly.

"We have identified 54 civil cases alleging PAM violations, but all of these cases are factually distinguishable. Specifically, in all of the civil PAM cases previously initiated by DOE, the income was earned from wholly domestic reselling activity; in none of those cases was there a colorable claim that the revenue should be properly allocated to offshore entities or was attributable to foreign oil transactions."

(Footnote Continued)

to take a profit of over \$3.20/bbl. Coastal sold crude to Coral, which resold to a third party, with each company charging its "maximum lawful selling price." Coral would then kickback all but \$.10/bbl of its profit to Coastal by engaging in offshore transactions with Holborn (a subsidiary of Coastal). Coral purchased from Holborn foreign crude that was designated for a third party in the United States. Coral's purchase price from Holborn was inflated by the amount of the kickback. Coral then resold the oil to Holborn's designated customer in the United States at the customers' contract price.

After an extensive audit of Coastal and Coral, the two companies pleaded guilty (Holborn pleaded nolo contendere) to one count criminal informations alleging a violation of 18 U.S.C. § 1001. Holborn paid a fine of \$1 million, while Coastal and Coral each paid fines of \$9 million. Wyatt, Chalmers, and Willson pleaded guilty to a one count information alleging a willful violation of 15 U.S.C. § 754(a)(3)(B)(i) (the EPAA enforcement provision). They each paid the maximum penalty of \$40,000, but served no time in jail.

Therefore, in the one case that involved a markup violation, none of the defendant's served any time in prison. It should be noted, as well, that the Wyatt/Chalmers scheme did not involve a first-leg, offshore tie-in, a factor which does exist in the MR and PG case. Indeed, this factor provides the key distinction between the Wyatt/Chalmers scheme and this case, and is what makes the transactions in our case lawful. The defendants in the Wyatt/Chalmers case did not have a colorable claim, as exists in this case, that the profits were properly attributable to the foreign oil transactions and thus should not have been reported.

2. Other Potentially Criminal Conduct (Posted Price Violations)

We have no reason to believe that MR and PG are suspected of any criminal conduct not already included in the indictment. Indeed, the U.S. Attorney's Office for the Southern District of New York has expressly represented that, based on its own 2½ year investigation, "there is no basis for seeking additional indictments of the defendants in this case" ⁵

Nevertheless, we have considered whether there would be criminal vulnerability for posted price violations. We could make the following statement, if pressed, in this area:

"We know of no case where a buyer, such as MRI(Zug) or AG, has been charged civilly or criminally with a violation of the posted price rules. We have uncovered no criminal prosecutions of producers based on a posted price violation [but see footnote 1]. All such posted price violations by producers ⁶ have been brought civilly. ⁷ In the leading case along these lines [Getty Oil], DOE

⁵ Memo to File from Rudolph W. Giuliani, U.S. Attorney (S.D.N.Y.) (Aug. 31, 1984).

⁶ We have identified 123 administrative enforcement actions, which we believe to be the universe of cases brought by DOE against crude oil resellers and producers. Eleven cases involved alleged violations by the seller of the maximum lawful selling price rule, resulting in the disgorgement of profits and/or the payment of civil fines. No such case has ever been pressed against a buyer.

⁷ One such case was brought against Arco and involved some transactions with MR entities. A PRO was issued, and ARCO paid civil fines for violating the MLSP (or posted-price) rules as a
(Footnote Continued)

first brought a case against the reseller, but then dismissed that case and successfully brought a claim against the producer."

(Footnote Continued)

crude producer. Although DOE was fully aware of MR's involvement on the purchasing side of some of those transactions, DOE never initiated any action against MR for those deals. Furthermore, Arco was clearly the more significant "violation" of the posted price rules, receiving consideration far in excess of that permitted for the first sale of domestic price-controlled crude oil. But Arco only paid civil fines, and no one at Arco was ever prosecuted criminally for those transactions.

ADDENDUM

The two criminal producer cases for which our search requests have so far been unsuccessful involve the following parties:

- (1) Don E. Pratt
- (2) Ernest & Charles Allerkamp

The three criminal reseller cases we have been unable to locate, but which Avrom Landesman provided us with certain information, involved the following parties:

- (1) The Crude Company
- (2) West Refining, Inc. (entitlement case)
- (3) Ted True (miscertification case)

JACK QUINN

MULTI-ADDRESS FACSIMILE TRANSMITTAL SHEET		
RECIPIENTS Beth Nolan Bruce Lindsey Betty Currie	RECIPIENTS' FAX #'S [REDACTED] [REDACTED] [REDACTED]	RECIPIENTS' PHONE #'S
SENDER Jack Quinn	SENDER'S TELEPHONE # 	
NUMBER OF PAGES (INCLUDING COVER) 3	DATE January 18, 2001	
RE:	YOUR REFERENCE NUMBER:	
<p align="center"><i>Confidential</i></p> <p>Information intended only for the use of the addressee named above. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, please note that dissemination, distribution or copying of this communication is strictly prohibited. Anyone who receives this communication in error should notify us immediately by telephone and return the original message to us at the above address via U.S. Mail.</p>		

☐ URGENT
 ☐ FOR REVIEW
 ☐ PLEASE COMMENT
 ☐ PLEASE REPLY
 ☐ PLEASE RECYCLE
 NOTES/COMMENTS

Jack Quinn

January 18, 2001

By Telecopy and Hand Delivery

The Honorable William Jefferson Clinton
President of the United States
The White House
Washington, DC 20502

Dear Mr. President:

I am writing to clarify several points with regard to the petition to pardon Marc Rich (and his partner Pincus Green), and to propose a solution to any concerns you might have regarding the setting of an unwise precedent involving individuals living outside the jurisdiction of our American country.

First, I think it is important to note that much of Mr. Rich and Mr. Green's professional lives have been spent abroad. For example, Mr. Rich was the head of Phillip Brothers' Office in Spain, and Mr. Green was stationed in Switzerland and other parts of Europe for much of his professional life. Thus, while they did not return to the United States following the issuance of the indictment, there is no question that this did not constitute a significant change in their international living circumstances.

Second, Mr. Rich and Mr. Green violated no laws in not returning to the United States, and no violation of law with regard to their purported "fugitivity" ever has been alleged. The United States did pursue whether Mr. Rich and Mr. Green could be *required* to return under international law and was unsuccessful in those efforts.

Thus, Mr. Rich and Mr. Green have lived not as fugitives, but their residences and places of business always have been available to and known to the United States. As a result, a pardon of Mr. Rich and Mr. Green would create no precedent with regard to fugitives who seek to evade justice by fleeing the United States and residing surreptitiously abroad.

However, I also want to make it clear that Mr. Rich and Mr. Green do not seek a pardon to avoid the legal consequences of their conduct. Rather, given the manifest unfairness of a criminal proceeding against them (as I have outlined previously), they seek relief from criminal sanctions only. My clients have authorized me to make it clear that they have always sought to negotiate a civil resolution with the government, and

William Jefferson Clinton
January 18, 2001
Page 2

would willingly accept a disposition that would subject them to civil proceedings with the Department of Energy (or other appropriate agencies). This is how other violations of the DOE pricing regulations were handled, including against ARCO. Moreover, such a resolution involving individuals is specifically contemplated by 15 U.S.C. 754, which concerns civil penalties for DOE regulatory violations. The language to effectuate such a conditional pardon could include the following:

Marc Rich and Pincus Green are pardoned from all crimes against the United States of America arising out of the actions, transactions and matters alleged in the criminal indictment pending in the Southern District of New York, S 83 Cr. 579 (SWK), provided that each of Marc Rich and Pincus Green agree in writing, by notice delivered within 30 days to the General Counsel of the Department of Energy, to be subject to the civil jurisdiction of the United States Department of Energy in connection with any civil fine or penalty which lawfully may be imposed in connection with the same actions and transactions which are the subject of this pardon.

I look forward to speaking with you further about this.

Sincerely,

A handwritten signature in black ink that reads "Jack". The signature is stylized with a large, looping "J" and a trailing flourish.

Jack Quinn

M. RICH FILE

JACK QUINN

- | | |
|-------------------------|--|
| 1. bk | 15. 6/w |
| 2. MR | 16. untemp.
advice |
| 3. statement | |
| 4. skepticism | 17. stayed away
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no tax
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off |
| 11. Freeland | |
| 12. SD view | |
| 13. escalation - EDW | |
| 14. ARW PRO | |

JACK QUINN

- unusual
- but not unworthy
- never was a case
 - * he * knew * found
- stayed away - publicity
- CTS/RODY SAY OVER REACTION
- will submit to some civil processes in Abu, others similarly sit.
- controversial / defensible
- limitation record since that time
- Ken Starr

Ira-
Lin re
- inequity
- bias - cold Ten
- Israel

CONFIDENTIAL

Jack Quinn

January 19, 2001

President William Jefferson Clinton
Washington, D.C.

Dear President Clinton:

I am writing to confirm that my clients, Marc Rich and Pincus Green, waive any and all defenses which could be raised to the lawful imposition of civil fines or penalties in connection with the actions and transactions alleged in the indictment against them pending in the Southern District of New York. Specifically they will not raise the statute of limitations or any other defenses which arose as a result of their absense.

Respectfully yours,

Jack
Jack Quinn



Jack Quinn

From: Jack Quinn
Sent: Monday, January 22, 2001 5:04 PM
To: 'Fink, Robert - NY'; 'Avner Azulay'; 'Kitty Behan'; Jack Quinn; 'Mike Green'; 'Gershon Kekst'
Cc: 'Marc Rich'
Subject: RE:

I would say that a vast range of people spoke up for marc, including people familiar with his case, his personal life and his good works. I would refer them hen to the formal filings. I continue to believe it important that we let people see that we made a great case on the merits. And, they should know marc was represented by prominent republicans over the years. P.S. just spoke to holder. said i did a very good job and that he thinks we shd be better about getting the legal merits of the case out publicly. i assured him we were and that we were letting the press see the petition and attachments. he was unsure about how to get indictment dismissed and travel restrictions lifted -- said after a few days and after we have individual warrant in hand we shd contact SDNY to discuss -- if they say they wil do nothing, we move in ct to both dismiss and have ins, interpol, etc notified. he also thinks we shd make public our commitment to waive defenses to civil penalties at doe and tthe support of barak.

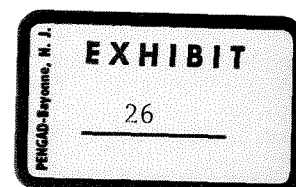
-----Original Message-----

From: Fink, Robert - NY [mailto:robert.fink@████████████████████]
Sent: Monday, January 22, 2001 4:12 PM
To: 'Avner Azulay'; 'Kitty Behan'; 'Jack Quinn'; 'Mike Green'; 'Gershon Kekst'
Cc: 'Marc Rich'
Subject:

I have beer asked who lobbied the President in behalf of Marc (and Pinky)
and said it may be private and therefore did not immediately respond..
May
I? Who should I say? I have told everyone that Denise was in favor of the
resolution of this case and was in favor of the pardon. I am trying to reach
her to let her know what I have said. Otherwise, I will keep calling people
back. So far it has been a full time job today.
Marc, I was asked who handled the divorce for you in Switzerland. I think
Andre. OK to give his name if pursued?
Bob

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Thank you.

For more information about Piper Marbury Rudnick & Wolfe, please visit us at <http://www.piperrudnick.com/>



Monday:

① Daron:

Congrats

It's good

Happy we could help

②

Vince - fine

③

Kate will shed

③

Holder

Thought you'd know the case out
there. Said "next time, bring

friends,"

Get some out there

So spoke to Simon. Had to
hang in there

Wait for index warrant. Then
contact SO - ask if they will
dismiss. Include a note
that Sus, subject etc allow
him to travel.

Can I send you references?

Thank you Lord - my friend John.

Jack Quinn

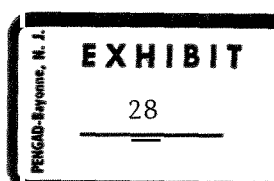
From: Avner [azulrich@REDACTED]
Sent: Tuesday, January 23, 2001 6:44 AM
To: Fink, Robert - NY; quinn jack; gkekst; behan kathleen
Cc: Rich, Marc
Subject: supporters list - media

I would also like to add that the list of supporters who addressed potus is "wall to wall" politically, and they come from the entire spectrum and walks of life. This should drown any attempts to target specifically anyone. We have jews and non jews - from Spain, Switzerland, etc.. and even a palestinian minister of health.

The last lettr from A. Burg (Speaker of the Knesset) & Israel Singer -(President of the WJC), which is not included in the petition book and was sent directly to potus reflect Israel & Diaspora communities.

You may judge from my comments what worries me and that we should do all possible to avoid it taking a political twist or focussing on top names - which the media would love to do. This more serious than me being disappointed personally about anything.

1/29/01

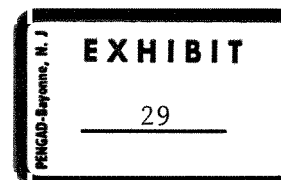


Jack Quinn

From: Avner Azulay [azulrich@██████████]
Sent: Wednesday, January 24, 2001 4:02 PM
To: 'Gershon Kekst'; Jack Quinn; Fink, Robert - NY
Cc: Rich, Marc; Kathleen_Behan@██████████
Subject: Globes

The PM spokesman confirmed to the Globes that Barak talked with Clinton some time ago about pardoning MR - as an acknowledgement of his contribution to the well being of the Jewish people in Israel and Diaspora as well to its national security. From another sources they mentioned that Clinton rcevd supporting ltrs from Israel Singer, A. Burg, Ehud Olmert, Yaakov Neeman, the Chief Rabbi of France, the King of Spain, Shlomo Ben Ami etc.. He denied that Barak received any political contributions.

1/29/01



Jack Quinn

From: Jack Quinn
Sent: Friday, January 26, 2001 9:28 AM
To: April Moore
Cc: Jeff Connaughton; Peter Mirijanian; Scott Hynes
Subject: Courier details

Imp we pin this down today. First, how do we prove that address we used is where all hand deliveries are required to go? Second, did delivery envelope say "DOJ"?

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

